

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JERMAINE DEVON WATKINS,

11 v. Plaintiff,

CATHERINE M. BAUM, et al,

12 Defendant.

13 CASE NO. C11-5494RBL

14 ORDER ON MOTION TO AMEND
15 COMPLAINT

16 THIS MATTER is before the Court on Plaintiff's Motion to Amend Complaint [Dkt.
17 #140]. The Court has reviewed the argument for and against the motion. Following the
18 unsuccessful lawsuits against past and present Department of Corrections employees whom the
19 Plaintiff claims are responsible for the loss of a kidney in 2012, Plaintiff seeks to sue a
20 "John/Jane Doe" whom he wishes to add as a defendant to his lawsuit. Evidence in the
21 possession of a party moving to amend is not newly discovered evidence for purposes of Fed. R.
22 Civ. P. 60(b)(2) if it could have been learned at an earlier date in the proceedings with exercise
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1 of due diligence. *Feature Realty Inc. v. City of Spokane*, 331 F.3d 1082, 1093 (9th Cir. 2003).

2 That is the situation here. The motion is **DENIED**.

3 Dated this 22nd day of January, 2018.

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Ronald B. Leighton
United States District Judge

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